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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local	)	CC Docket No. 96-98
Competition Provisions of the	)	
Telecommunications Act of 1996	)	
	)	
Interconnection Between Local	)	CC Docket No. 95-185
Exchange Carriers and Commercial	)	
Mobile Radio Service Providers	)	

To: The Commission

**PUERTO RICO TELEPHONE COMPANY**  
**OPPOSITION TO PETITION FOR RECONSIDERATION**

Pursuant to Section 1.106(g) of the FCC Rules and Regulations, 47 C.F.R. § 1.106(g), the Puerto Rico Telephone Company (PRTC) hereby respectfully submits its opposition to the petition for reconsideration (filed Sept. 30, 1996) of Pilgram Telephone, Inc. (Pilgram) of the Commission's Order in the captioned proceeding.<sup>1</sup>

**I. INTRODUCTION**

Pilgram argues that the Order requires incumbent LECs to provide billing and collection (B&C) service for other telecommunications carriers and proposes that the Commission define B&C service as an unbundled network element. See Pilgram Pet. at 4-5. As explained below, Pilgram has misread the Order, its

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1. See First Report and Order, FCC 96-325 (rel. Aug. 8, 1996) (the "Order").

proposal is contrary to the Communications Act and the public interest, and should be rejected.

## II. DISCUSSION

### A. Pilgram Has Misinterpreted The Order.

Pilgram describes itself as "an interexchange carrier and information provider [that] rel[ies] on the availability of network elements for resale." Pilgram Pet. at 1. Pilgram contends that the Order requires incumbent LECs to perform billing and collection service on behalf of other carriers. See Pilgram Pet. at 4 (citing Section 51.313(c)). The Commission's new rules, however, actually require incumbent LECs to provide requesting telecommunications carriers access to the information, databases and signalling necessary for them to conduct their own billing and collection service. The rules do not require an incumbent LEC to perform B&C service on behalf of a third party, nor should they.

New Section 51.313(c) of the Commission's rules provides

An incumbent LEC must provide a carrier purchasing access to unbundled network elements . . . billing functions of the incumbent LEC's operations support systems.

47 C.F.R. § 51.313(c) (emphasis added). In this context, the Commission has defined "billing" as

The provision of appropriate usage data by one telecommunications carrier to another to facilitate customer billing with attendant acknowledgements and status reports. It also involves the exchange of information between telecommunications carriers to process claims and adjustments.

47 C.F.R. § 51.5 (emphasis added). Thus, the provision of "billing" under the Order and the Commission's rules simply

requires an incumbent LEC to provide a purchaser of unbundled network elements access to the operations support systems and usage data that are necessary for the purchaser to perform billing and collection for itself. See Order ¶ 525 (an incumbent LEC "must provide. . . access to operation support systems functions for . . . billing of unbundled network elements under section 251(c)(3) and resold service under section 251(c)(4)"). Neither the Order nor the Commission's rules require incumbent LECs to perform B&C service on behalf of other telecommunications carriers as Pilgram argues.

**B. The Communications Act Does Not Provide Authority To Define B&C Service As A Network Element.**

The network element unbundling provision of the 1996 Act<sup>2</sup> requires incumbent local exchange carriers

to provide, to any requesting telecommunications carrier for the provision of a telecommunications service, nondiscriminatory access to network elements on an unbundled basis . . . .

47 U.S.C § 251(c)(3) (emphasis added). Incumbent LECs therefore must provide a telecommunications carrier a "network element" if the element is required for the provision of a "telecommunications service." B&C service is beyond the scope of Section 251(c)(3) for two reasons: one, it is not a network element and two, it is not necessary for the provision of a telecommunications service.

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2. Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act") to be codified at 47 U.S.C. §§ 151 et seq. (Hereinafter, all citations to the 1996 Act will be as it will be codified in the United States Code.)

B&C service is not a network element. Congress defined "network element" as

a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or provision of a telecommunications service.

47 U.S.C. § 153(29) (emphasis added). Network elements thus include network equipment and facilities, and the capabilities of either, "used in the in the provision of a telecommunications service."

Although incumbent LECs may use network elements to provide B&C service, B&C service itself is not a network element. Rather, it is a labor intensive "financial and administrative service." Detariffing of Billing and Collection Services, 102 FCC Rcd 1150, 1168, recon. denied, 1 FCC Rcd 445 (1986). It may involve "the mailing of bills, the collection of customer deposits and bill payments, the handling of customer inquiries concerning their bill, and the investigation of customer fraud or billing evasion activities." Id.

Not only is B&C service outside the definition of a network element, but it is also unnecessary for the provision of a telecommunications service as required by Section 251(c)(3). Congress defined "telecommunications service" as "the offering of telecommunications for a fee directly to the public . . . ." 47 U.S.C. § 153(46). The term "telecommunications" means "the transmission . . . of information . . . without change in the form

or content of the information as sent and received." 47 U.S.C. § 153(43). Simply put, B&C service is not required to transmit information and therefore is not necessary for the provision of a telecommunications service under Section 251(c)(3). Indeed, the Commission has determined that "carrier billing or collection for the offering of another unaffiliated carrier is not a communications service for purposes of Title II of the Communications Act." Detariffing of Billing and Collection Services, 102 FCC Rcd at 1168; see also Audio Communications, Inc., 8 FCC Rcd 8697 (Comm. Carr. Bur. 1993) (billing and collection for 900 service is not a common carrier service).

Under Section 251(c)(3), incumbent LECs provide requesting carriers access to network elements (such as signalling and databases) that are used in the provision of B&C service. However, because B&C service is not a network element and because it is not necessary to provide a telecommunications service, there is no basis to define B&C service as an unbundled network element.

**C. Mandatory Unbundling of B&C Service Would Be Contrary To The Public Interest.**

Unbundling B&C service would be contrary to the public interest. The performance of billing and collection activities for other carriers would be administratively complex and burdensome. For example, the incumbent LEC might have to train customer service personnel in procedures which differ from its own (this problem would be compounded if the incumbent LEC had to perform B&C service for several carriers with different billing requirements). Because third-party billing would require human and other resources in

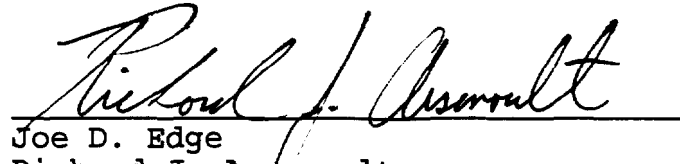
addition to those used for the incumbent's own billing and collection activities, an incumbent LEC might have to recruit additional personnel. Indeed, the provision of B&C on behalf of a competitive service provider could pose conflict of interest issues as well as burdensome document retention requirements.

Pilgram contends that to the extent a requesting telecommunications carrier obtains a network element from an incumbent LEC to provide any telecommunications service, it should have access to incumbent LEC B&C service both for the provision of such telecommunications service and for any information services it might provide. See Pilgram Pet. at 5. Pilgram highlights the infirmity of its proposal and the potential for abuse arguing that such a requirement should be independent of "the relative levels of traffic . . ." Id. Thus an information service provider (including a 900 service provider) could obtain B&C service from an incumbent LEC by purchasing a single network element to provide a nominal telecommunications service. Such a result would be contrary to the Act by permitting an information provider to benefit from Section 251, when Congress intended Section 251 to apply only to telecommunications carriers. The potential for encumbering incumbent LEC billing and collection operations in these circumstances underscores why the Commission should not require incumbent LECs to provide B&C service as an unbundled network element.

### III. CONCLUSION

For the foregoing reasons, the Puerto Rico Telephone Company respectfully requests that the Commission deny Pilgram's petition to unbundle billing and collection service.

Respectfully submitted,

A handwritten signature in cursive script, reading "Richard J. Arsenault", is written over a horizontal line.

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**CERTIFICATE OF SERVICE**

I, Lisa A. Dean, hereby certify that a copy of the foregoing  
Opposition to Petition for Reconsideration of Puerto Rico Telephone  
Company was mailed first-class, postage prepaid this 31st day of  
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